



# **FREDERICK COUNTY PLANNING COMMISSION**

**July 13, 2011**

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**TITLE:** **Linton at Ballenger, Section II  
Townhouse Setback Modification**

**FILE NUMBER:** **SP 05-08 (AP #11916, APFO #11917  
& FRO #11918)**

**REQUEST:** **Combined Preliminary/Final Site Plan  
Revision**  
The Applicant is requesting approval of a modification to the Townhome side yard setback from 4 feet to 3 feet in order to accommodate the builder's architecture as well as the architectural features required by the county.

**PROJECT INFORMATION:**

**LOCATION:** Located along Ballenger Creek Pike, east of Elmer Derr Road.

**REGION:** Adamstown

**WATER/SEWER:** W-3, S-3.

**COMP. PLAN/LAND USE:** Planned Unit Development (PUD)

**APPLICANT/REPRESENTATIVES:** (as applicable)

**APPLICANT:** Linton Green, LLC.

**OWNER:** Linton Green, LLC

**ENGINEER:** Rogers Consulting, Inc.

**ARCHITECT:** Not Listed

**ATTORNEY:** Not Listed

**STAFF:** Tolson DeSa, Principal Planner

**RECOMMENDATION:** Conditional Approval

**Enclosures:**

Exhibit #1-Site Plan Rendering  
Exhibit #2-August 7, 2008 FCPC Findings and Decision Letter Linton at Ballenger Section II

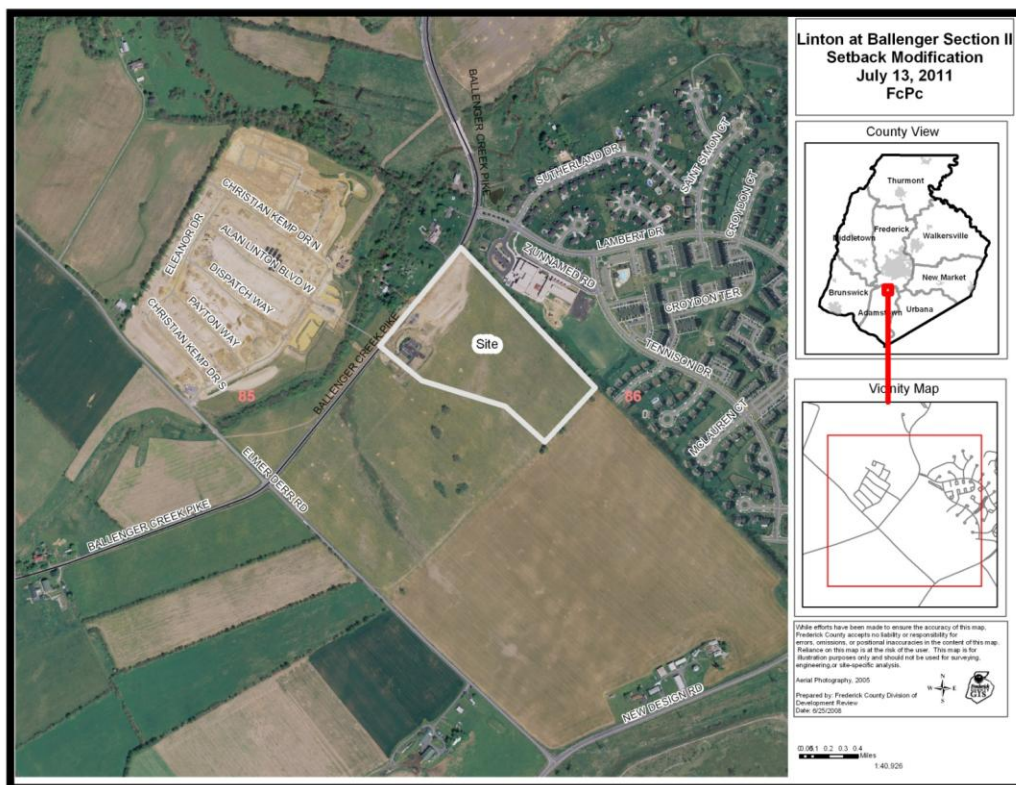
# STAFF REPORT

## BACKGROUND

### Past Approvals:

The Ausherman Development Corporation filed an application to rezone the Linton Property, which consists of 138.7 acres, from Agriculture classification to the Planned Unit Development (PUD) classification to permit the development of a mixed-use residential community containing a maximum of 763 dwelling units. On March 11, 2004, the Applicant received approval from the Board of County Commissioners (BOCC) for the rezoning request with twenty-six (26) conditions. These conditions are outlined in Ordinance Number 04-03-347. At the time of this Phase I Plan approval, a Maximum Density of 5.5 dwelling units per acre was set for the project by the BOCC.

The Phase II Plan for the development was conditionally approved at the October 20, 2004 Frederick County Planning Commission (FCPC) meeting. The Phase II Development Plan incorporated the provisions of the Moderately Priced Dwelling Unit Ordinance adopted in November 2002. The site is located within the Adamstown Planning Region, with a comprehensive plan designation of Medium Density Residential. The FCPC conditionally approved the Preliminary Plan for Section I, the Site Plan for the townhome portion of Section I and the Combined Preliminary Plan and Site Plan for Section II of the Linton Farm in May of 2005.



The Applicant has complied with all the conditions set forth by the Planning Commission for the Section I Preliminary Plan and has received full approval. The Combined Preliminary/Final Site Plan for Section II was approved by the FCPC on October 10, 2007, with an October 10, 2010 expiration date. On September 16, 2009 the Applicant filed and received a two-year extension which extended approval until October 10, 2012. Under the 2011 Extension Ordinance # 11-03-569 this approval was extended another 3 years, which resulted in another revised expiration date of October 10, 2015.

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The Planning Commission reviewed and approved several modifications for this project. The modifications that have been approved include height, setback, and a parking space modification. The Applicant has recorded lots in Section I and has vested the site plan for Section I of the development.

**Present Proposal:**

The Applicant is requesting approval of a modification to the townhome side yard setback from 4 feet to 3 feet in order to accommodate the builder's architecture as well as the architectural features required by the county.

During the FCPC meeting on October 10, 2007, additional conditions of approval were placed on Section II of Linton at Ballenger. One of those conditions of approval was to provide upgraded architectural elements to include bay windows, masonry facades and side treatments, additional windows on end units as well as four-sided architectural features. In order to fulfill this condition of approval, additional land area must be made available to the builder in order to properly accommodate these upgrades without interfering with the approved 4' setbacks. Therefore, the Applicant is requesting a one-foot reduction from 4' to 3' for all side-yard setbacks of all townhouses within Section II. This modification request is consistent with the previously approved townhouse setbacks for Section III.

**ANALYSIS**

**Land Use:** The Applicant received approval for a Preliminary Plan for Section II, which includes 10 single family detached units, 88 townhouse units, 72 "two-over-two" condominium units, a public school site, noted as , ( Parcel "F", and is to be added to Tuscarora Elementary School and dedicated to the Board of Education), and a common open-space area shown as Parcel "H".

The "two-over-two" condominium arrangement is as follows: The first unit occupies levels 1 and 2, and the second unit occupies levels 3 and 4. The exterior façade of the building is designed architecturally to appear as one (single) 4-story town home unit.

**Zoning:** The site is located within the Planned Unit Development (PUD) Zoning District.

**Frederick County Comprehensive Plan: Adamstown Region**

The Frederick County Comprehensive Plan indicates that the land use for the Linton at Ballenger, Section II PUD is Medium Density Residential. The use proposed for Linton at Ballenger, Section II PUD complies with the Land Use designation within the County Comprehensive Plan.

**Dimensional Requirements/Bulk Standards:** The Applicant originally submitted several modification requests to the dimensional requirements for the FCPC to review and received approval for all of the modifications listed below on October 10, 2007. These modifications are for height, setback, and parking space requirements permitted by right in the PUD zoning district under Section 1-19-10.700.2 and specifically, Sections 1-19-10.700.2 (C)(1), 1-19-10.700.2 (C)(3) of the Zoning Ordinance.

**Original Setback Modification:**

The Frederick County Planning Commission (FCPC) granted the following modifications for all townhouses within Section II on October 10, 2007;

- Town homes no garage: 15-foot front and 30-foot rear yard and a 4-foot side yards. Building height 45 feet.
- Town homes integral garage: 30-foot front and 20-foot rear yard and 4-foot side yards. Building height 45 feet.
- Town homes with detached garages: 10-foot front and 35-foot rear yard and 4-foot side yards. Building height 45 feet.
- Single family Section: Main Dwelling: 5-foot front, 40-foot rear and a 5-foot side yards. Detached garage: 5-foot rear and side yard. Building height of 30 feet.
- Multifamily-Condominiums (2/2): 10-foot front, rear and side yards. Building height 53 feet.

**Proposed Setback Modification:**

During the FCPC meeting on October 10, 2007 additional conditions of approval were placed on Section II of Linton at Ballenger. One of those conditions of approval was to provide upgraded architectural elements to include bay windows, masonry facades and side treatments, additional windows on end units as well as four-sided architectural features. In order to fulfill this condition of approval, additional land area must be made available to the builder in order to properly accommodate these upgrades without interfering with the approved 4' setbacks. Therefore, the Applicant is requesting a one-foot reduction in the side-yard setbacks of all townhouses within Section II.

If the Planning Commission approves the modification request the setbacks would be as follows:

- Town homes no garage: 15-foot front and 30-foot rear yards and a 3-foot side yards.
- Town homes integral garage: 30-foot front and 20-foot rear yards and 3-foot side yards.
- Town homes with detached garages: 10-foot front and 35-foot rear yards and 3-foot side yards.

The Applicant is not proposing any alterations to the setbacks for the Single-family or Condominium Sections.

The Applicant has provided a revised modification table and noted the request under Note 10 of the General Notes on Sheet 1 of 10 of the Preliminary Plan.

**Access/Circulation:** The access for Section II will not change as part of this application.

The access to Section II is shown on the plan as "Street A east". This street serves as the spine road for Section II and will provide a future connection to the adjoining property to the East. The Applicant has provided on street parking that will serve Section II and future Section III of the

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project. The Applicant has reserved a construction easement on parcel "F" for the future connection of "Street A" on to the adjoining property.

**Parking:** Parking for Section II will not change as part of this application.

**Landscaping:** Landscaping throughout Section II will not change as part of this application.

**Utilities:** The site is to be served by public water and sewer and is classified W-3, S-3.

**Lighting:** Lighting will not change as part of this application.

**Adequate Public Facilities Ordinance (APFO):**

This project was reviewed for potential impacts on roads, water and sewer, and schools during the Phase II Plan. A Letter of Understanding (LOU) has been executed for this project, which identifies the required road, water and sewer and school improvements for the entire project, the number of lots that can be recorded, and timing of amenities. The Applicant has executed an agreement with the BOE that has allowed the Applicant to provide the funding to design, construct and equip the additions to Tuscarora High School. The additions have been constructed. The Applicant has made improvements to the S-Curve and is complying with the executed Letter of Understanding. The APFO approval is valid until October 20, 2017.

Staff has determined that there was no increase in trip intensity over the previously approved APFO due to the setback modification request.

**Forest Resource Ordinance (FRO):** FRO requirements are being addressed for this project on site. The final forest conservation plan and legal documents have been approved and recorded. FRO for the site has been mitigated.

**OTHER AGENCY COMMENTS**

<b><i>Other Agency or Ordinance Requirements</i></b>	<b><i>Comment</i></b>
<b><i>Development Review Engineering (DRE):</i></b>	N/A.
<b><i>Development Review Planning:</i></b>	A few minor drafting issues noted in Hansen, in addition to items listed in the report.
<b><i>State Highway Administration (SHA):</i></b>	N/A.
<b><i>Div. of Utilities and Solid Waste Mngt. (DUSWM):</i></b>	N/A.
<b><i>Health Dept.</i></b>	N/A.
<b><i>Office of Life Safety</i></b>	N/A.
<b><i>DPDR Traffic Engineering</i></b>	Approved
<b><i>Historic Preservation</i></b>	N/A.

## **FINDINGS**

Based on the discussion in this report and with the conditions listed below, Staff finds that the application meets and/or will meet all applicable Zoning, APFO and FRO requirements once the conditions of approval have been met.

Staff notes that if the Planning Commission conditionally approves this Combined Preliminary/Final Site Plan, the Combined Preliminary/Final Site Plan will remain valid until October 10, 2015.

As previously stated, APF was previously approved during the Phase II stage. The LOU was signed on March 9, 2005 for Section I-IV for a period no longer than ten years or until October 20, 2014, the APFO was granted a three-year extension on July 26, 2009, which extended the expiration date to October 20, 2017.

Staff has no objection to conditional approval of this Revised Combined Preliminary Plan/Final Site Plan.

## **RECOMMENDATION**

Should the Planning Commission conditionally approve this Site Plan SP # 05-08 (AP# 11916, APFO 11917 & FRO 11918) for the proposed Revised Combined Preliminary/Final Site Plan, the motion for approval should include the following item:

1. Revised Combined Preliminary/Final Site Plan, which is valid until October 10, 2015.

Staff recommends that the following items be added as conditions of approval:

1. Address all agency comments as the plan proceeds through completion.
2. Modification for the setbacks to allow:
  - Townhomes no garage: 15-foot front and 30-foot rear yards and a 3-foot side yards.
  - Townhomes integral garage: 30-foot front and 20-foot rear yards and 3-foot side yards.
  - Townhomes with detached garages: 10-foot front and 35-foot rear yards and 3-foot side yards.

**Exhibit #1 Overall Site Plan: Linton at Ballenger Section II**



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FREDERICK COUNTY, MARYLAND**

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August 7, 2008

Drees Homes  
7210 Corporate Court  
Suite B  
Frederick, Maryland 21703

Re: Linton Combined Preliminary/Site Plan: Section II,  
Site Plan: SP #1128 (Hansen #6573, APFO #6574, FRO #6575)  
PLANNING COMMISSION DECISION

Dear Mr. Albers:

At their meeting held on October 10, 2007, the Frederick County Planning Commission granted conditional approval to the above-referenced Combined Preliminary Plan and Site Plan application. The following conditions were attached to their approval:

1. Applicant shall continue to address all agency comments through the completion of this project.
2. Place a note on the plan stating any modification granted by the FCPC.
3. Work with Staff to reduce the number of parking spaces adjacent to lots 241, 242, 222, 257, and 262 and the spaces along Private Street K and H to allow for more green area, better pedestrian experience, and less conflict with adjacent housing units.
4. Work with Staff to provide upgraded architectural features for the residential units to include four sided window and door treatments, architectural grade shingle, provide masonry facades for a minimum of 50% of units, bay windows on end units, additional windows on end units, and four sided architectural/materials, as approved by Staff. Special attention should be given to the following higher visible lots: 175-184, 185, 221, 222, 227, 228, 241, 242, 252, 253, 257, 258, 262, 263, 267, 268, 272, and buildings 2001-2006 units.
5. Work with Staff to provide upgraded architectural features for the detached garage units to include upgraded garage door and door treatments, architectural grade shingles to match the house, step backs between each units to reduce long unattractive facades, change in material of the units, and upgraded end units, as approved by Staff.

6. Work with Staff to provide 5-foot sidewalks throughout the development.

7. Any loss of landscaping should be provided elsewhere on-site where appropriate to achieve the same effect, as approved by Staff.

Please provide nine (9) copies of the revised site plan addressing all of the above conditions to the office of Development Review Planning. At such time as the above conditions are determined by the County to be fully addressed and completed, the site plan will be stamped and signed "Approved" by the Development Review Planning Staff. The approved site plan will then be distributed to all necessary parties. If any of the above conditions are unclear and require further discussion with Staff, please arrange to meet with the Development Review Staff. This action could help you obtain timely approval of the site plan.

Please be advised that the site plan approval shall expire two (2) years after the date of the original Planning Commission approval of October 10, 2007, or October 10, 2009.

"Start of Construction" is defined in Section 1-19-4 of the County Zoning Ordinance. Upon written request submitted to the Zoning Administrator no later than one (1) month prior to the expiration date, and for good cause shown by the applicant, the Zoning Administrator may grant a one (1) -time extension for a period not to exceed six (6) months. However, the length of site plan approval, including any extension thereof, may not exceed the length of the approval under the Adequate Public Facilities Ordinance (APFO) if APFO approval is required.

The applicant may file for Improvement Plan review with the Department of Development Review Engineering following Planning Commission site plan approval or conditional approval. No zoning certificate and building permit will be issued, and no structure or use will be established except in conformity with a site development plan approved by the Planning Commission, or their authorized representatives, and until the site plan has been signed as approved by the Department of Development Review Planning. Also, please note that a grading permit and zoning certification must be obtained prior to the start of construction.

If you have any questions feel free to contact me at 301-600-6729.

Respectfully,



Tolson DeSa,  
Development Review Principal Planner I

Cc:  
Randy Frey, Rogers Consulting  
Mark Walls, Development Review Planner

File#SP-1128